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September 18, 2013

Mr. Thomas Hintermister
Assistant Staff Director
Audit Division
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Hintermister:

We write on behalf of the Democratic Party of Illinois and its treasurer (collectively, "DPIL"), in response to the Interim Audit Report of the Audit Division regarding DPIL's 2010 election cycle activities. DPIL has complied with the recommendations of the Audit Division and is taking additional steps to strengthen its compliance with the Federal Election Campaign Act of 1971, as amended ("the Act"), and with Federal Election Commission (the "Commission") regulations, as described further below.

INTRODUCTION

During the 2010 election cycle, DPIL was heavily active in nonfederal elections, in a state which permitted unlimited corporate and union contributions in these same elections. The Interim Audit Report presents no finding of excessive contributions, or contributions from prohibited sources. Nor does it present any finding that DPIL overpaid expenses with nonfederal funds.

Rather, the findings closely track the unique and complex obligations that state parties heavily active in nonfederal elections face under the Bipartisan Campaign Reform Act of 2002 ("BCRA").¹ They resulted from compliance processes which, while tailored for DPIL's Illinois state law obligations, did not adequately account for Commission regulations. DPIL divides its compliance functions between its permanent staff and external accountants, whose focus primarily is on state law compliance. DPIL has already begun working to strengthen its federal procedures. It has sent one of its headquarters staff to a Commission training and is developing an internal compliance manual.

¹ The Commission has not audited DPIL since before BCRA's passage.

Finally, DPIL has taken the remedial actions recommended by the auditors, amending its reports and transferring \$75,800 in contributions to its nonfederal account. These matters are discussed further below.

DISCUSSION

Finding 1. Misstatement of Financial Activity

DPIL is amending its reports to conform to the auditors' recommendations. A majority of the cited misstatements arise from a single erroneous transaction: the mistaken wire transfer of \$137,089 to Illinois Victory, and the return of these same funds. DPIL is reviewing and revising its procedures for reconciling and verifying its reports, to ensure that such errors do not recur.

Finding 2. Recordkeeping for Employees

The Interim Audit Report confirms that DPIL properly paid for its employee salaries and benefits. As the Report acknowledges, many of these employees were made available to work on specific nonfederal campaigns, with their salaries and expenses treated as in-kind contributions under state law. DPIL maintained and provided to the auditors extensive documentation that supported the nature of the employees' duties: contracts, employment applications and IRS W-4 forms. The Report correctly states: "The documentation provided by DPIL supports its position that the employees it considered non-federal could be paid from its non-federal accounts."²

Nonetheless, DPIL acknowledges the need to improve its system for maintaining monthly payroll logs. A copy of the log it intends to use, as part of its general compliance procedures, has been sent separately to the auditors.

Finding 3. Fundraising Receipts

The Interim Audit Report identifies \$75,800 in contributions to the federal account that it says were raised through ten fundraising events, four of which benefited a nonfederal campaign. The Report recommends either that DPIL transfer these funds to its nonfederal account, or that it provide documentation to demonstrate the permissibility of their deposit.

To comply with the auditors' recommendations, DPIL has transferred \$75,800 to its nonfederal account. However, DPIL respectfully submits that the Report presents no failure to allocate the event costs, nor does it present any indication that the events in question were somehow "joint fundraisers" under 11 C.F.R. § 102.17.

All of the events in question were nonfederal fundraising events. The amounts identified by the auditors were accordingly insubstantial, when compared with the total amounts raised through

² Interim Audit Report at 7.

these same events. The contributions identified by the auditors comprise only 6.4 % of the \$1,179,725 raised from the ten identified events; this percentage was much lower in the case of some individual events.³

Even these small percentages overstate the amounts of federal funds that might have been received in connection with these events. The auditors apparently relied on batch deposit slips to link individual checks to a particular event. Because some batch deposit slips were annotated with the name of the event that generated the bulk of the checks, the auditors seem to have assumed that a check was raised by an event when included in such a batch. Yet frequently, these batches included non-event checks that were received around the same time period. For example, the auditors identified \$23,050.00 in federal contributions in association with a September 28, 2010 'Janssen Event.' However, at least \$19,500 of these contributions show no indicia of association with this event, other than their inclusion in the batch. They were issued far in advance of the event, and they were solicited by an individual not associated with the event.

Neither the allocation rules nor the joint fundraising rules are triggered when a bona fide nonfederal fundraising event elicits a de minimis number of federal contributions. The allocation regulations address the direct costs of fundraising programs or events in which a committee raises both federal and non-federal funds for itself.⁴ The joint fundraising rules apply when multiple committees engage in "[c]ombined fundraising campaigns."⁵ But the Interim Audit Report presents no evidence that DPIL sought federal contributions through any of these events, or that the nonfederal campaign in question actively sought contributions for DPIL through its events. However, because of the limited documentation available, and to eliminate any question of noncompliance, DPIL has nonetheless made the recommended transfer. The final report should reflect the resolution of this finding.

Finding 4. Unreported Levin Fund Activity

Finding 4 involves a federal election activity expenditure of \$144,375 that DPIL initially disclosed incorrectly as a shared operating expenditure. Because DPIL reported the expense in this way, it did not initially show the expense on Schedule H-6, nor did it identify the corresponding Levin receipts on Schedule L-A. There is no dispute that the underlying expense was Levin-eligible, and that DPIL had sufficient Levin funds on hand to pay the Levin share of the expense: "The Audit staff concurs that Levin funds could have been transferred to the federal

³ See Interim Audit Report at 10. Event-specific percentages were derived from a spreadsheet provided by the auditors at the Exit Conference. The auditors also later provided the DPIL with a spreadsheet listing the discrete contributions at issue in this finding.

⁴ Commission Regulations on Prohibited and Excessive Contributions, Explanation and Justification, 67 Fed. Reg. 49064, 49079 (July 29, 2002).

⁵ Advisory Opinion 1979-75, cited in Transfer of Funds; Collecting Agents; Joint Fundraising, 48 Fed. Reg. 26,296, 26,298 (1983).

account in regard to this expenditure, and that DPIL did have sufficient Levin funds available to be transferred."⁶ DPIL is amending its reports to conform to the auditors' recommendation.

We appreciate the Commission's attention to our response.

Very truly yours,

A handwritten signature in black ink, appearing to read "B. G. Svoboda", followed by a long horizontal flourish.

Brian G. Svoboda
Daniel B. Nudelman

BGS

⁶ Interim Audit Report at 13.